

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Shaleen Robinson,

Plaintiff,

vs.

Martin O'Malley, Commissioner
of Social Security,

Defendant.

Civil Action No. 4:23-3261-RMG

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of Social Security denying her claim for disability insurance benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 DSC, this matter was referred to a United States Magistrate Judge for pre-trial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on March 27, 2024, recommending that the Commissioner's decision be affirmed. (Dkt. No. 12). Plaintiff filed no objections to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1).

The role of the federal judiciary in the administrative scheme established by the Social Security Act is a limited one. The Act provides that the "findings of the Commissioner of Social

Security as to any fact, if supported by substantial evidence, shall be conclusive.” 42 U.S.C. § 405(g). “Substantial evidence has been defined innumerable times as more than a scintilla, but less than preponderance.” *Thomas v. Celebrezze*, 331 F.2d 541, 543 (4th Cir. 1964). This standard precludes *de novo* review of the factual circumstances that substitutes the Court’s findings of fact for those of the Commissioner. *Vitek v. Finch*, 438 F.2d 1157, 1157 (4th Cir. 1971).

Although the federal court’s review role is a limited one, “it does not follow, however, that the findings of the administrative agency are to be mechanically accepted. The statutorily granted right of review contemplates more than an uncritical rubber stamping of the administrative action.” *Flack v. Cohen*, 413 F.2d 278, 279 (4th Cir. 1969). Further, the Commissioner’s findings of fact are not binding if they were based upon the application of an improper legal standard. *Coffman v. Bowen*, 829 F.2d 514, 519 (4th Cir. 1987).

Plaintiff, who was 50 years of age on her onset date, had past relevant work as a personnel clerk, hotel clerk, district manager, and nurse assistant. The Administrative Law Judge concluded that Plaintiff retained the capacity to perform sedentary work and retained the capacity to perform past relevant work as a personnel clerk. Dkt. No. 12 at 2-3. The Administrative Law Judge further found that Plaintiff did not have any impairment or combination of impairments that equals one of the listed impairments. *Id.* at 2.

Plaintiff argued before the Magistrate Judge that the Administrative Law Judge should have accounted for mild limitations in all of the four areas of the mental “Paragraph B” criteria.. The Magistrate Judge recommended in the R & R that the decision of the Commissioner be

affirmed because there was substantial evidence in the record supporting the decision of non-disability. *Id.* at 6-11. As previously mentioned, Plaintiff filed no objections to the R & R.

The Court finds that the Magistrate Judge ably analyzed the factual and legal issues presented on appeal and correctly concluded that the decision of the Commissioner should be affirmed. The Court adopts the R & R of the Magistrate Judge (Dkt. No. 12) as the order of the Court. The decision of the Commission is affirmed.

AND IT IS SO ORDERED.

S/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

Charleston, South Carolina
April 11, 2024

